

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Diane L. McGuire,

Plaintiff(s),

vs.

International Paper Company Retiree Service
Center,

Defendant(s).

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Case Number: 1:09cv740

Chief Judge Susan J. Dlott

ORDER

The Court has reviewed the Report and Recommendation of United States Magistrate Judge Stephanie K. Bowman filed on January 28, 2011 (Doc. 26), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired February 17, 2011, hereby ADOPTS said Report and Recommendation.

Accordingly, plaintiff's motion for partial summary judgment (Doc 20) is **DENIED**.

Defendant's cross-motion for summary judgment (Doc. 21) is **GRANTED** insofar as:

- a. Plaintiff's second and third claims will be **DISMISSED** with prejudice;
- b. Plaintiff's first claim is **DISMISSED** without prejudice based on her failure to exhaust the remedies available to her under the IP Plan, or in the alternative, is **DISMISSED** with prejudice since Defendant has established through un rebutted evidence that its calculation of benefits is reasonable.

All claims having been disposed of on summary judgment, this case is hereby **TERMINATED** from the docket of this Court.

IT IS SO ORDERED.

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s/Susan J. Dlott
Chief Judge Susan J. Dlott
United States District Court